



### NOTABLES TO ADDRESS SIXTH IMHOTEP CONFERENCE

In addition to SENATOR JACOB K. JAVITS of New York, whose pending bill would amend the Hill-Burton Act to prevent racial discrimination, ATTORNEY JACK GREENBERG, chief counsel of the NAACP Legal Educational and Defense Fund, Inc., who with associates has filed a suit in Greensboro, N. C., challenging the constitutionality of the Hill-Burton anti-discrimination clause, will address the Sixth Imhotep National Conference on Hospital Integration at the Fifteenth Street Presbyterian Church in Washington, D. C., May 25, 26, 1962.

Other prominent leaders who will appear on the program are the heads of the sponsoring organizations, DR. VAUGHAN C. MASON, president of the National Medical Association, MR. ROY WILKINS, executive secretary of the NAACP, and MR. WHITNEY M. YOUNG, executive director of the National Urban League.

DR. EMERY L. RANN of Charlotte, North Carolina, will serve as chairman of the Conference flanked by MR. GLOSTER CURRENT, director of Branches of the NAACP, and MISS JEWELDEAN JONES, director of activities of the National Urban League.

DR. W. MONTAGUE COBB, founder of the Conference, is serving as chairman of the Local Imhotep Committee, with the support of DR. MITCHELL W. SPELLMAN, president of the Medico-Chirurgical Society of the District of Columbia, the REV. E. FRANKLIN JACKSON, president of Columbia Branch of the NAACP, MR. STERLING TUCKER, executive director of the Washington Urban League, and the REV. ROBERT PIERRE JOHNSON, minister of the Fifteenth Street Presbyterian Church.

Present indications forecast a nationwide representation at the Conference.

### EXECUTIVE PROCEDURE WITHOUT EFFECT IN HOSPITAL AREA

Evidence has begun to accumulate that unless there is a change in policy at highest Government levels, executive action can have no influence on removal of discriminatory practices in relation to hospitals built with the aid of Hill-Burton funds.

The so-called "separate-but-equal" clause in the Hospital Survey and Construction Act of 1946 reads as follows:

Sec. 622, f. That the State plan shall provide for adequate hospital facilities for the people residing in a State without discrimination on account of race, creed, or color, and shall provide for adequate hospital facilities for persons unable to pay therefor. Such regulation may require that before approval of any application for a hospital or addition to a hospital is recommended by a State agency, assurance shall be received by the State from the applicant that 1) such hospital or addition to a hospital will be made available to all persons residing in the territorial area of the applicant, without discrimination on account of race, creed or color, but an exception shall be made in cases where separate hospital facilities are provided for separate population groups, if the plan makes equitable provision on the basis of need for facilities and services of like quality for each such group; and 2) there will be made available in each such hospital or addition to a hospital a reasonable volume of hospital services to persons unable to pay therefor, but an exception shall be made if such a requirement is not feasible from a financial standpoint.

The published Proceedings of the First Imhotep Conference in 1957 and much subsequent data have shown that in local areas hospital authorities have interpreted

this clause practically as they pleased so that there has been no change in the *status quo* relative to the admission of patients to hospitals erected with the aid of Hill-Burton funds and the admission of Negro physicians to the staffs of these hospitals. It would further appear that the United States Department of Health, Education, and Welfare is not disposed to take any initiative in respect to these matters nor has the U. S. Department of Justice thus far found any basis on which to move. Three examples may serve to illustrate the nature of this picture.

#### BEAUMONT, TEXAS

In Beaumont, Texas, there was recently opened a new St. Elizabeth Hospital built at a total cost of \$6,449,-417.00 of which \$1,000,000.00 was a grant from the Federal Government from Hill-Burton funds, made in 1959. In January 1962, it became known that all of the white physicians of Beaumont had been sent application blanks for membership on the St. Elizabeth's staff. There are six Negro physicians in Beaumont, all of whom are members of the Jefferson County Medical Association, the Texas Medical Association, the American Medical Association, the Lone Star State Medical Association and the National Medical Association.

Acting in their behalf, DR. E. D. SPROTT, who with his two brothers, DRs. MAXIE and CURTIS SPROTT, operates the Sprott Hospital in Beaumont, secured a con-

ference with the authorities of St. Elizabeth in which he stated that the qualified Negro doctors of Beaumont desired to submit application for staff membership at St. Elizabeth Hospital. He was told that, "The present policy of the hospital is that Negro patients will not be admitted to St. Elizabeth Hospital except in dire emergencies," and that if there were no Negro patients there would be no need for Negro doctors. Upon being reminded that the Doctors Sprott had had an integrated practice that had extended over a period of 25 years and that this fact was general knowledge in the city of Beaumont, the Blue Cross of Texas and every major insurance company supplying hospital, medical and surgical coverage in the Sabine-Neches area, the doctor was told that he did not have a problem. Then came expression of the point of view held by the St. Elizabeth authority relative to compliance with the non-discrimination clause of the Hill-Burton Act.

We have made provisions for our colored patients in Martin DePorres Hospital. We provided for them 12 years ago when we built it for them and they have not really supported it. That accounts for the fact that we had to put them on the third floor and put our white patients on the first and second floors.

The *Journal* is informed that St. Elizabeth Hospital is the fourth Catholic hospital to be built in Beaumont. Of the four, the Martin DePorres Hospital, built some 12 years ago, is a four story building erected specifically for Negroes. This institution ran at about 40 per cent capacity for two years before Negro patients were confined to the third floor. The six Negro physicians of Beaumont have staff privileges here. Of these four have full privileges and two privileges under preceptors.

We have thus an instance in which responsible authority in a local hospital considers that a hospital erected 12 years ago constitutes "equal provisions" for Negro patients and therefore a ground for denial of admission of Negro patients to the new St. Elizabeth Hospital and of Negro doctors to the staff of this institution. The question now arises as to what the Surgeon General of the Public Health Service considers "equitable provision" for separate population groups. This then opens for inquiry a whole area of the policies of the office of the Surgeon General in approving applications for Hill-Burton funds.

#### ATLANTA

In Atlanta, Georgia, young dentist, Dr. Roy C. Bell, has made repeated and extensive representations with respect to discriminatory practices at the magnificent and relatively new tax-supported Grady Memorial Hospital there. He has appeared before the Fulton County Commissioners, who appoint the Hospital Authority and before the Fulton County Grand Jury. He has presented the matter to all the proper officials of the State of Georgia. He has also kept the subject before the public through two weekly radio programs and pressured candidates for city office to express their views on health services for Negroes in Atlanta. Representations have also been made to the U.S. Secretary of Health, Education, and Welfare, the U. S. Attorney General, the Commission on Civil Rights, Vice President Johnson and President Kennedy.

A condensation of Dr. Bell's presentation to the County Commissioners in August 1961 reads as follows:

The health committee which I represent is concerned with the medical opportunities and the availability of health services for Negroes at Grady Hospital and Hughes Spalding Pavilion.

We are gravely disturbed about the quality of health service rendered Negroes under existing conditions. It is our opinion that the separate division of the physical plant allocated to Negroes hampers the quality of service for both races but more severely hinders the quality of service for Negroes. . . . Of the approximately 500 visiting staff members at Grady Hospital, there is not a single Negro physician or dentist among this group. This is an injustice to the professional man and to the patient.

Hughes Spalding, which accommodates most Negroes whose income is ample to pay normal fees, has no facilities for emergencies. This alone underlines the fact that Spalding is sadly lacking in facilities as well as staff.

The existing health services for Negroes in the city of Atlanta is critical. Negroes are faced with a restriction of the number of hospitals available to them. This restriction is based purely on color. Atlanta has 14 general hospitals and nine related institutions. This affords some 4,000 available beds, but except for 430 beds at Grady, Negro citizens are limited to 250 beds in three private hospitals. Some of these hospitals that bar Negroes from their facilities were built or have utilized federal funds. No hospital available to Negroes is fully accredited by the American Hospital Association or any other national rating body. Expressed in a percentage form, the Negro while comprising one third of the population of this city of one million, is restricted to the use of one-sixteenth of the total number of hospital beds available to any non-Negro in the city. These figures are exclusive of Veterans Administration and Army facilities.

Grady Hospital and Hughes Spalding Pavilion play a great role in health services available to Negroes in Atlanta. Grady is a well constructed physical plant costing 26,000,000 dollars. It is administered by the Fulton-DeKalb Hospital Authority. The members of this Authority are appointed by the Board of County Commissioners of which you compose. Grady is a tax supported institution. Census taken of patients at Grady indicated that from 70 to 80 per cent are Negroes. This makes it virtually a Negro hospital as far as the number of patients treated are concerned. As stated before, Grady is run on a segregated basis, separate wards, emergency rooms, operating rooms and there are even separated morgues. This system does not and cannot offer the best medical care. Needless to say, this is a costly operation, made even more costly to taxpayers, both Negro and White, by virtue of there being two hospitals in one. Neither the tax payers who support Grady nor the patients who benefit from its services receive fair treatment under this present system.

How do the Hospital Authority and County Commissioners explain the fact that Grady has 18 beds for psychiatric patients and the record shows 127 white patients were served as in-patients and not a single Negro served on an in-patient basis? The Federal Government paid \$13,200 of the total cost of \$30,000 to equip this psychiatric ward, the state paid \$6,800 and Fulton County \$10,000. How can you justify not having served Negroes on an in-patient basis? Please explain why public funds are used to operate two technical schools, those of x-ray technology and laboratory technology, neither of which admit Negroes? We might add that the advisory board of Hughes Spalding Pavilion has repeatedly brought these conditions to the attention of the Hospital Commission. We not only appeal to the County Commissioners and the Hospital Authority Board, but to all responsible humane citizens, Negro and White to immediately do something about these deplorable conditions.

It should not be necessary to have to bring court action to settle this issue. Our city has gotten enough bad publicity as

it is. Can we not settle this problem among ourselves, its responsibility lies with all of us.

We make the following recommendations:

1. That a representative number of Negroes be appointed to the hospital authority.
2. That qualified Negro physicians and dentists be granted staff membership at Grady.
3. That all facilities at Grady be desegregated, and
4. That there be immediate action to correct the deplorable situation at Hughes Spalding Pavilion.

Since this situation represents a continuous threat on the lives of the Negro population of Atlanta, we ask that immediate action be taken on these recommendations.

The Atlanta Medical Association, an NMA affiliate, made the following representations to the County Commissioners:

The members of the Atlanta Medical Association are greatly disturbed over the present administration and distribution of health services at Grady Memorial Hospital.

Since public tax funds are involved as well as federal funds, since we profess to live by democratic and christian ideals, and since justice, morality and decency dictate fair play toward all citizens our organization wishes to submit to the Fulton-DeKalb Hospital Authority the following recommendations:

1. That immediate complete desegregation of all facilities and services at Grady Memorial Hospital be effected.
2. That qualified Negro physicians and dentists be granted full staff membership at Grady Memorial Hospital.
3. That internes, residents and students be accepted for training at Grady Memorial Hospital without regard to race.
4. Specifically, in the training program in medical and x-ray technology Negro students should be accepted for this much needed training.
5. We also can find no justification for maintaining two separate nursing schools. Negro nurses must go outside of Grady Memorial Hospital to obtain some of their basic courses.

6. We are mindful of some of the relationships between Grady Memorial Hospital and Emory University, however, we feel that the Fulton-DeKalb Hospital Authority, as a policy making body, should accept the responsibility for, and initiate these recommended changes.

The foregoing makes clear that the Grady Hospital situation has been adequately made a matter of public protest and has been formally brought to the attention of the proper local, state and federal authorities. Now comes the interesting development that the attorneys general of both the State of Georgia and of the United States will not release an opinion (Georgia) or initiate a suit (U.S.) on the representation of an individual.

Exploring the tax-exempt status of Emory University as a potential wedge into the problem, Dr. Bell requested an opinion of the Georgia State Attorney General as to the tax-immunity of the University in relation to his admittance there. The reply of November 29, 1961, stated:

In reply to your recent telegram requesting me to give you an opinion as Attorney General on the question of the constitutionality of tax immunity granted Emory University or church related universities, it has been a policy of the state Law Department to 1) never release a legal opinion to individuals even though the subject matter might eventually address itself to a department of the State Government; and 2) your second question as to whether tax immunity granted Emory University is in violation of the 14th Amendment of the U. S. Constitution; and 3) if constitutional, would it be compatible with the tax status of other educational institutions, are both speculative.

Moreover, the questions you proposed have not been raised

by either the State Revenue Department or Emory University. For three reasons I am constrained to decline your request for a legal opinion.

With respect to the intervention of the U.S. Department of Justice, the Assistant Attorney General in charge of the Civil Rights Division described the Government's position as follows:

This is in reply to your telegram of August 9, 1961, concerning segregation in Georgia hospitals, particularly in regard to staff membership, and the alleged use of federal funds to support these institutions.

The Attorney General has no statutory authority to bring suits in behalf of private individuals for the desegregation of such facilities. Such suits must be instituted by individual litigants. Two recent private suits will be of interest to you in this connection. *Raton v. Grobb*, now pending in the United States District Court for the Eastern District of North Carolina, was filed by Negro physicians and patients for the desegregation of the James Walker Memorial Hospital in Wilmington, North Carolina. One allegation of the complaint is that the hospital is partially supported by federal funds. In an earlier suit, *Raton v. Board of Managers*, concerning the same hospital, the courts denied the relief sought, 164 F. Supp. 191, 261 F. 521, 359 U.S. 934.

In *Jordan v. Kennedy* a group of Negro taxpayers sought to enjoin the use of federal funds for institutions whose facilities "are barred to members of the public solely because of race." On motion of the government, that case was dismissed, but without prejudice to the filing of another action. Civil Action No. 478-61, United States District Court for the District of Columbia, April 24, 1961.

We appreciate your concern with the problems of hospital segregation and your desire to discuss the situation with the Attorney General. Since, however, the Attorney General is prohibited by law from furnishing legal advice or opinions to private individuals, we regret that we shall not be able to arrange a conference.

#### NORTH CAROLINA

On November 27, 1961, DR. HUBERT A. EATON of Wilmington, N. C., DR. CHARLES D. WATTS of Durham, N. C., and DR. WILEY T. ARMSTRONG of Rocky Mount, N. C., as a committee of physicians representing the Old North State Medical Society held a series of conferences with Federal officials in Washington, D. C. These conferences were sought:

- a. To discuss in general segregation and discrimination in Hospitals built and to be built in North Carolina with the aid of Hill-Burton funds.
- b. To officially protest such practices of segregation and discrimination to the Department of Health, Education and Welfare on behalf of the Old North State Medical Society.
- c. To seek ways and means as well as assistance towards the best possible approach to this problem; the solution to which would be repudiated of the separate but equal policy in Hill-Burton hospitals in North Carolina and elimination of all segregation and discrimination in these institutions with respect to doctors, patients and personnel.

The officials interviewed were in the United States Senate, the Department of Justice and the Department of Health, Education, and Welfare.

The committee had earlier learned from the Department of Justice in reply to a request for an interpretation or ruling on the non-discrimination provision of the Hill-Burton Act with respect to a proposed hospital in North Carolina that "The Attorney General and his assistants are authorized to furnish legal opinions only to the President and heads of the Executive Departments.

Therefore, I must decline to express any opinion on the question you have raised." The committee learned that the possibility was extremely remote of "obtaining a restraining order in the form of an injunction against the Department of Health, Education and Welfare to prevent any additional Federal funds from being used to construct hospitals until the Act was changed or amended or until the interpretation of the Hospital Survey and Construction Act as it is now written was updated to conform with the present concept of discrimination as set forth by the Supreme Court in May 1954 in its decision affecting public schools, etc." The way did appear open to file with the Department of Justice protests against discriminatory practices permitted in hospitals built with the aid of Federal funds and request thor-

ough and complete investigation.

The impression gained from conferences in the Department of Health, Education, and Welfare was that the anti-discrimination clause of the Hill-Burton Act had no teeth in it, that the "assurances" as to compliance on the part of the applicant had never been questioned and there was no procedure of checking on the validity of the "assurances," nor was there any authorized course of action in case of violations. The Department had never had a case of reported violation to consider. It did not appear that the Department considered it its province to know what went on in hospitals after grants had been made nor was it anxious to become involved in this area.

### GREENSBORO, NORTH CAROLINA, GROUP FILES HISTORIC SUIT AGAINST HOSPITAL EXCLUSION

On February 12, 1962, a group of 11 Negro citizens of Greensboro, N. C., filed a historic suit against two new hospitals of that city constructed with the aid of Federal funds, charging that the exclusion of Negro physicians and dentists from the staffs of the hospitals and the exclusion of Negro patients either from admission or admission on the same basis as whites are in violation of constitutional rights, and that the "separate but equal" antidiscrimination clause of the Hospital Survey and Construction (Hill Burton) Act is in violation of the Fourteenth and Fifth Amendments of the Constitution. This is the first litigation directly challenging the constitutionality of the Hill Burton Act antidiscrimination clause.\*

Of the 11 plaintiffs, six are physicians, DR. WALTER J. HUGHES, DR. A. V. BLOUNT, JR., DR. NORMAN N. JONES, DR. GIRARDEAU ALEXANDER, DR. E. C. NOEL,

III, and DR. F. E. DAVIS; three are dentists, DR. G. C. SIMKINS, JR., DR. MILTON BARNES and DR. W. L. MILLER and two are private citizens, MR. A. J. TAYLOR and MR. DONALD R. LYONS. One is a patient suffering from a medical disorder and the other a patient who has a dental condition requiring treatment.

The hospitals against whom the suit is brought are the Moses H. Cone Memorial Hospital and the Wesley Long Community Hospital. The Cone Hospital received \$1,276,950.00 from the Federal Government for new construction and the Long Hospital \$1,708,150.00. These grants were made by the North Carolina Medical Care Commission, an agency of the State charged with administering the program of Federal grants in the state of North Carolina. The plaintiffs are represented by Attornies JACK GREENBERG, JAMES M. NABRIT, III and MICHAEL MELTSNER, of the N.A.A.C.P. Legal Defense and Educational Fund, Inc., and by Atty. CONRAD O. PEARSON of Durham, N. C.

\* v. this Journal, v. 53, pp. 647-648, November 1961, for legal discussion of this principle.

### MARYLAND COMMISSION REPORT CITES NEGRO HEALTH NEEDS

The Committee on Medical Care of the Maryland State Planning Commission issued a report in January 1962 citing "serious health problems among the Negro population" of the State. The report was based upon a study to determine what Maryland's proper responsibility should be for the education of physicians to meet our 1975 needs. It considered also major related issues such as foreign medical graduates, graduate and postgraduate medical education opportunities, medical research, Ph.D. needs, financial support for medical students, and the health of the Negro population. Excerpts from the report are as follows:\*

#### MAJOR CONCLUSIONS

3. Don't we need more doctors to handle the health problems of those Negroes, and others, in the lower socioeconomic group?

Serious health problems exist among the Negro population, and we suspect among others in the lower socio-

economic group. While additional physicians may be necessary to assist in providing for their medical requirements, the chief deterrents to good health seem to rest with a lack of knowledge both about the services which are available and the fundamental practices essential for personal health, a shortage of hospital beds available for Negro patients, and the economic pressures which do not permit adequate diet or housing.

10. Is the potential of our Negro population fully utilized?

The potential of our Negro population is not being fully utilized. College undergraduate programs of quality are not readily available to them. The qualified Negro student may see no reason to study medicine in large part because internships, residencies, and medical staff appointments in hospitals are generally denied to him.

#### MAJOR RECOMMENDATIONS

1. The planned expansions at the two medical schools should be given full and prompt support from the

\* The excerpts from the report were prepared by Dr. Emerson C. Walden.